

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF CHARGES FILED AGAINST)	
POLICE OFFICER JAMIE C. CHISEM,)	No. 11 PB 2783
STAR No. 3202, DEPARTMENT OF POLICE,)	
CITY OF CHICAGO,)	
)	(CR No. 1024212)
RESPONDENT.)	

FINDINGS AND DECISION

On December 1, 2011, the Superintendent of Police filed with the Police Board of the City of Chicago charges against Police Officer Jamie C. Chisem, Star No. 3202 (hereinafter sometimes referred to as “Respondent”), recommending that the Respondent be discharged from the Chicago Police Department for violating the following Rules of Conduct:

- Rule 2: Any action or conduct which impedes the Department’s efforts to achieve its policy and goals or brings discredit upon the Department.

- Rule 6: Disobedience of an order or directive, whether written or oral.

- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

- Rule 14: Making a false report, written or oral.

The Police Board caused a hearing on these charges against Police Officer Jamie C. Chisem to be had before Jacqueline A. Walker, Hearing Officer of the Police Board, on March 13 and 15, 2012.

Following the hearing, the members of the Police Board read and reviewed the record of proceedings and viewed the video-recording of the testimony of the witnesses. Hearing Officer Walker made an oral report to and conferred with the Police Board before it rendered its findings

and decision. (Board members Scott J. Davis and Ghian Foreman recused themselves from this case pursuant to §2-57-060(c) of the Municipal Code of Chicago.)

POLICE BOARD FINDINGS

The Police Board of the City of Chicago, as a result of its hearing on the charges, finds and determines that:

1. The Respondent was at all times mentioned herein employed as a police officer by the Department of Police of the City of Chicago.

2. The written charges, and a Notice stating when and where a hearing on the charges was to be held, were served upon the Respondent more than five (5) days prior to the hearing on the charges.

3. Throughout the hearing on the charges the Respondent appeared in person and was represented by legal counsel.

4. The Respondent's Motion to Strike and Dismiss is **denied** for the reasons set forth below. The Respondent requests that the charges filed against him be stricken and the case dismissed because of a failure by the Independent Police Review Authority (IPRA) and the Superintendent to bring the charges in a timely manner. The Respondent argues that the delay in bringing the charges violates the Respondent's due process rights, is contrary to the doctrine of laches, violates the Police Department's General Order 93-03, and violates the provisions of the Municipal Code pertaining to IPRA.

a. Due Process. Citing *Morgan v Department of Financial and Professional Regulation*, 374 Ill.App.3d 275, 871 NE2d 178 (1st Dist 2007), and *Lyon v Department of Children and*

Family Services, 209 Ill.2d 264 (2004), the Respondent claims that the constitution precludes such a lengthy delay in the investigation of the Respondent's alleged misconduct. *Morgan* and *Lyon*, however, involved a delay in *adjudication* of allegations of misconduct after the respective plaintiffs had been suspended from their jobs—not delay in the *investigation* leading to the initial suspensions. *Morgan* involved a clinical psychologist accused of sexually abusing a patient, where the state took fifteen months to decide the case after the suspension. *Lyon* involved a teacher accused of abusing students where the director of DCFS failed to honor specific regulatory time limits for decision-making.

The Respondent's case before the Police Board is different from *Morgan* and *Lyon*, as the Respondent in his Motion is complaining about the delay from the time of the incident to the bringing of charges, not the time it took to try him once the charges were filed and he was suspended without pay. This difference is important because the due-process analysis in *Morgan* and *Lyon* is triggered by the state's decision to deprive the psychologist and teacher of their jobs, and then have them sit for prolonged periods of time before they were accorded the opportunity to have a hearing and decision to clear their name. Here, the Respondent was working and was being paid during the entire period of the investigation and up to the filing of charges with the Police Board. The Due Process clause precludes a state or local government from "depriving any person of life, liberty or property [i.e. a public job] without due process of law." Here, the Respondent was not suspended without pay from his job until December 2, 2011, one day after the charges against him were filed, and therefore the Respondent was *not* deprived of his job prior to the filing of charges, and any delay in bringing the charges is therefore *not* a violation of the Respondent's due process rights.

We recognize that the Circuit Court of Cook County, in *Orsa v City of Chicago Police Board*, 11 CH 08166 (March 1, 2012) found that the protections of the Due Process clause are triggered by an unreasonable delay in the investigation of a matter, even if the officer retains his job, salary and benefits during the investigation. The Court cited *Stull v The Department of Children and Family Services*, 239 Ill.App.3d 325 (5th Dist. 1992). *Stull* involved a teacher accused of sexually abusing two of his students. The statute and regulations governing DCFS investigations of child abuse provided strict time limits on the length of any investigation and on the time within which a hearing must be conducted and a decision entered if the adult found to have abused children sought a hearing. The *Stull* court found that DCFS had grossly violated these time limits and required expungement of the adverse finding against the teacher, even though the administrative appeal found that he had been properly “indicated” as an abuser. The *Stull* court did find that the teacher’s due process rights had been infringed, but it was not because of a delay in DCFS’ investigation of the case. The court held that due process was violated by the more than one year delay in adjudicating the teacher’s appeal because during that period of time there was an indicated finding of child abuse lodged against the teacher and this finding prohibited him from working, *see* 239 Ill.App.3d at 335, thus triggering the kind of deprivation that is not present in Officer Chisem’s case. *Cavaretta v Department of Children and Family Services*, 277 Ill.App.3d 16 (2nd Dist. 1996), also cited by the Circuit Court, is identical to *Stull*, which it relies upon. The *Cavaretta* court was quite careful to find that due process was not implicated until DCFS (after its investigation was complete) “indicated” the teacher as a child abuser and placed the teacher’s name in the state’s central registry, which directly deprived the teacher of the ability to work.¹

¹ The Circuit Court also cited *Cleveland Board of Education v Loudermill*, 470 U.S. 532 (1985) but only in general

b. Laches. In his Motion, the Respondent also argues that the delay in the Department's bringing the charges against him resulted in prejudice to him in losing his employment and in hampering his ability to locate counter evidence years after the fact to defend against the charges. It argues further that the doctrine of laches should apply here in supporting the dismissal of charges.

Laches is an equitable doctrine that is used to prevent a party in litigation from enforcing a right it otherwise has because it has not been diligent in asserting this right and the opposing party has been prejudiced by the delay. The Respondent cites in his motion *People v McClure*, 218 Ill.2d 375 (2006), to support his argument that the doctrine of laches should be applicable. In *McClure*, the Illinois Supreme Court declined to apply laches against a DUI defendant who waited a year to challenge the statutory summary suspension of his driving privileges. The court found no evidence of prejudice stemming from the delay in filing his petition.

Private parties and public agencies are not on an equal footing when it comes to the application of the laches doctrine. Many cases, including *Van Milligan v Board of Fire and Police Commissioners of the Village of Glenview*, 158 Ill.2d 85, 630 NE2d 830 (1994), hold that laches can only be invoked against a municipality under "compelling" or "extraordinary" circumstances. In addition, the party that invokes the doctrine of laches has the burden of pleading and proving the delay and the prejudice. *Hannigan v. Hoffmeister*, 240 Ill. App. 3d 1065, 1074 (1st Dist. 1992).

The Respondent received notice of the allegations against him, with specificity, shortly after the incident occurred. The incident occurred on February 25, 2009, and on approximately

terms. There was no issue in *Loudermill* that a deprivation, for due process purposes, had occurred as it involved the discharge of school district employees.

May 6, 2009, the Independent Police Review Authority (IPRA) notified the Respondent of the allegations against him with IPRA's Request for Interview/Statement that was given to Respondent. On the subsequent dates of May 12, 2009, and August 14, 2009, either Respondent personally or through counsel had communication with IPRA pertaining to the pending allegations made against the Respondent. Thus, the Respondent was notified of the allegations against him, had time to locate counter evidence, and did in fact provide IPRA with information about a witness to provide counter evidence.

Accordingly, the Respondent has failed to establish that the delay in bringing charges prejudiced him, and has failed to articulate compelling and extraordinary circumstances to justify dismissing this case on the grounds of laches.

c. General Order 93-03. The Respondent argues that the Police Department's own General Order requires a prompt and thorough investigation, and that the Department failed to fully comply with the provisions of this General Order.

In fact, the General Order does not set an absolute deadline within which investigations must be completed, but provides that if they last more than 30 days, the investigator must seek and obtain an extension of time within which to complete the investigation. Here, the investigator regularly did seek, and was granted, extensions of time, in compliance with the General Order. Additionally, on at least one occasion an extension was necessary for the investigator to interview one of Respondent's witnesses.

Once the investigator completed the process of gathering evidence, the matter is reviewed at several levels to ensure that a thorough investigation was conducted, as required by the General Order.

There was no substantial violation of the General Order in this case, and there are no grounds to dismiss the charges based on a failure to follow the General Order.

d. Municipal Code Section 2-57-070. The Code provides that the Chief Administrator of the Independent Police Review Authority (IPRA) must conclude an investigation within six months or else report the reasons for not concluding it to the Mayor, the City Council, the complainant, and the officer. The Respondent argues that IPRA did not comply with this provision of the Code.

The Respondent was informed of the allegations made against him on May 6, 2009, when he was informed of this by IPRA. Furthermore, on August 27, 2009, Respondent was sent a letter by IPRA informing him that the investigation was not yet completed, as it needed witnesses' cooperation.

In any event, neither Section 2-57-070 nor anything else in the Code states that dismissal of a Police Board case is the sanction for failing to make the report to the Mayor, the City Council, the officer, and the complainant. It is unpersuasive that such an extreme sanction would automatically follow, particularly where the alleged misconduct under investigation is as serious as it is here. Without any basis or cited authority, and none is given by the Respondent, there is no basis for the Board to dismiss the charges pursuant to Section 2-57-070.

5. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count I: On or about February 25, 2009, Officer Chisem engaged in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department, in that Officer Chisem failed to complete a Contact Information Card following the investigatory street stop of Tiffany Magby and/or Ashley Magby at the Walgreens Pharmacy located at or about 3405 South Martin Luther King Drive as required by Department Special Order 03-09 (now referred to as Special Order S04-13-09).

The Respondent pled guilty to violating Rule 6 by failing to complete a contact information card as required by the Special Order (see paragraph no. 9 below). In addition to violating Rule 6, this conduct by Officer Chisem violates Rule 2.

6. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count II: On or about February 25, 2009, Officer Chisem engaged in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department, in that Officer Chisem conducted an investigatory street stop of Tiffany Magby and/or Ashley Magby at the Walgreens Pharmacy located at or about 3405 South Martin Luther King Drive in violation of Department Special Order 03-09 (now referred to as Special Order S04-13-09) by restricting Tiffany Magby's and/or Ashley Magby's freedom of movement longer than was required to determine if probable cause to arrest existed.

Convincing and credible evidence was presented by witnesses Ashley Magby and Tiffany Magby that Officer Chisem unnecessarily detained them after an initial stop based on a possible curfew violation inquiry. Both witnesses testified that Ashley presented her identification to Chisem, as well as informed Chisem that both she and Tiffany were twins. The identification presented showed that both women were of the age of majority, and were in fact

adults. Notwithstanding, Chisem continued to follow both Ashley and Tiffany throughout the store and unjustifiably questioned them and inhibited Ashley's freedom of movement longer than was required to determine if probable cause to arrest existed. Officer Chisem's account of his interaction with Ashley and Tiffany is not credible.

7. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count III: On or about February 25, 2009, Officer Chisem engaged in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department, in that Officer Chisem followed and/or attempted to engage in conversation with Ashley Magby and/or Tiffany Magby; and/or grabbed Ashley Magby's hands and put them behind her back as if to arrest her, and therefore detained her without legal justification; and/or pushed himself up against Ashley Magby; and/or pushed Ashley Magby; and/or touched and/or attempted to touch Tiffany Magby's head scarf, after Ashley Magby showed Officer Chisem her identification card demonstrating that Ashley Magby and her twin sister, Tiffany Magby, were not curfew violators.

Both Ashley and Tiffany presented credible evidence that Officer Chisem, without permission and justification, placed his hands on Ashley's arms, placed her arms in back of her, pushed himself up against Ashley's back, and pushed Ashley. Further convincing testimony was given by Tiffany that Officer Chisem also unjustifiably attempted to touch Tiffany's head scarf. Officer Chisem's account of his interaction with Ashley and Tiffany is not credible.

8. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department,

in that:

Count IV: On or about May 12, 2009, Officer Chisem engaged in any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department, in that Officer Chisem, while being interviewed by the Independent Police Review Authority, denied talking to Ashley Magby and/or Tiffany Magby in a flirtatious and/or unprofessional manner; and/or grabbing and/or handling one of the twins' scarves; and/or standing behind one of the twins, pulling her hands behind her back as if to arrest her; and/or pushing Ashley Magby, when, in fact, Officer Chisem engaged in all of the above-described conduct.

Based on the credible and convincing testimony presented by Ashley and Tiffany Magby, as well that of Debra King, a cashier at the Walgreens on the day and time of the incident, the Department proved that the allegations against Officer Chisem did occur. Officer Chisem's account of his interaction with Ashley and Tiffany is not credible.

Debra King, even though not an occurrence witness, did testify that she saw both Ashley and Tiffany in the Walgreen's immediately after the incident, and they both appeared to be upset. She also testified that she did hear Ashley and Tiffany say that they were going to report Officer Chisem, and that Officer Chisem then apologized.

Accordingly, Officer Chisem's statement to the Independent Police Review Authority, wherein he denied the allegations against him, was intentionally false and did bring discredit against the Department.

9. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that:

Count I: On or about February 25, 2009, Officer Chisem disobeyed an order or directive, whether written or oral, in that Officer Chisem failed to complete a Contact Information Card for his investigatory street stop of Tiffany Magby and/or Ashley Magby at the Walgreens Pharmacy located at or about 3405 South Martin Luther King Drive as required by Department Special Order 03-09 (now referred to as Special Order S04-13-09).

The Respondent pled guilty to this charge.

10. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral,

in that:

Count II: On or about February 25, 2009, Officer Chisem disobeyed an order or directive, whether written or oral, in that Officer Chisem conducted an investigatory street stop of Tiffany Magby and/or Ashley Magby at the Walgreens Pharmacy located at or about 3405 South Martin Luther King Drive in violation of Department Special Order 03-09 (now referred to as Special Order S04-13-09) by restricting Tiffany Magby's and/or Ashley Magby's freedom of movement longer than was required to determine if probable cause to arrest existed.

See the findings set forth in paragraph no. 6 above, which are incorporated here by reference.

11. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty,

in that:

On or about February 25, 2009, Officer Chisem disrespected or maltreated any person, while on duty, in that Officer Chisem followed and/or attempted to engage in conversation with

Ashley Magby and/or Tiffany Magby; and/or grabbed Ashley Magby's hands and put them behind her back as if to arrest her, and therefore detained her without legal justification; and/or pushed himself up against Ashley Magby; and/or pushed Ashley Magby; and/or touched and/or attempted to touch Tiffany Magby's head scarf, after Ashley Magby showed Officer Chisem her identification card demonstrating that Ashley Magby and her twin sister, Tiffany Magby, were not curfew violators.

See the findings set forth in paragraph no. 7 above, which are incorporated here by reference.

12. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty,

in that:

On or about February 25, 2009, Officer Chisem engaged in any unjustified verbal or physical altercation with any person, while on duty, in that Officer Chisem followed and/or attempted to engage in conversation with Ashley Magby and/or Tiffany Magby; and/or grabbed Ashley Magby's hands and put them behind her back as if to arrest her, and therefore detained her without legal justification; and/or pushed himself up against Ashley Magby; and/or pushed Ashley Magby; and/or touched and/or attempted to touch Tiffany Magby's head scarf, after Ashley Magby showed Officer Chisem her identification card demonstrating that Ashley Magby and her twin sister, Tiffany Magby, were not curfew violators.

See the findings set forth in paragraph no. 7 above, which are incorporated here by reference.

13. The Respondent, Police Officer Jamie C. Chisem, Star No. 3202, charged herein, is **guilty** of violating, to wit:

Rule 14: Making a false report, written or oral,

in that:

On or about May 12, 2009, while being interviewed by the Independent Police Review Authority, Officer Chisem made a false report, written or oral, in that he denied talking to Ashley Magby and/or Tiffany Magby in a flirtatious and/or unprofessional manner; and/or grabbing and/or handling one of the twins' scarves; and/or standing behind one of the twins, pulling her hands behind her back as if to arrest her; and/or pushing Ashley Magby, when, in fact, Officer Chisem engaged in all of the above-described conduct.

See the findings set forth in paragraph no. 8 above, which are incorporated here by reference.

14. The Police Board has considered the facts and circumstances of the Respondent's conduct, and the evidence presented in defense and mitigation. The Police Board determines that the Respondent must be discharged from his position due to the serious nature of the conduct of which it has found him guilty, including but not limited to: engaging in unnecessary and inappropriate physical contact with two young women, detaining them in violation of Department policy, failing to document the encounter, and making material false official statements in an attempt to cover up his misconduct. The Respondent's actions were not only highly unprofessional, but constituted a serious abuse of his authority as a police officer and demonstrated that he lacks the integrity required to carry out his duties. The Board finds that the Respondent's conduct is sufficiently serious to constitute a substantial shortcoming that renders his continuance in his office detrimental to the discipline and efficiency of the service of the Chicago Police Department, and is something which the law recognizes as good cause for him to not occupy his office.

Police Board Case No. 11 PB 2783

Police Officer Jamie C. Chisem

Findings and Decision

BY REASON OF THE FINDINGS set forth herein, cause exists for the discharge of the Respondent, Police Officer Jamie C. Chisem, Star No. 3202, from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

POLICE BOARD DECISION

The Police Board of the City of Chicago, having read and reviewed the record of proceedings in this case, having viewed the video-recording of the testimony of the witnesses, having received the oral report of the Hearing Officer, Jacqueline A. Walker, and having conferred with the Hearing Officer on the credibility of the witnesses and the evidence, hereby adopts all findings herein; and, in reaching its decision as to the penalty imposed, the Board has taken into account not only the facts of this case but also the Respondent's complimentary and disciplinary histories, copies of which are attached hereto as Exhibit A; and

IT IS HEREBY ORDERED that the Respondent, Police Officer Jamie C. Chisem, Star No. 3202, as a result of having been found **guilty** of charges in Police Board Case No. 11 PB 2783, be and hereby is **discharged** from his position as a police officer with the Department of Police, and from the services of the City of Chicago.

DATED AT CHICAGO, COUNTY OF COOK, STATE OF ILLINOIS, THIS 19th DAY OF APRIL, 2012.

/s/ Demetrius E. Carney

/s/ Melissa M. Ballate

/s/ William F. Conlon

/s/ Rita A. Fry

/s/ Susan L. McKeever

/s/ Johnny L. Miller

/s/ Elisa Rodriguez

Attested by:

/s/ Max A. Caproni
Executive Director
Police Board

DISSENT

The following members of the Police Board hereby dissent from the Decision of the majority of the Board.

[None]

RECEIVED A COPY OF
THE FOREGOING COMMUNICATION
THIS ____ DAY OF _____, 2012.

SUPERINTENDENT OF POLICE

/ 1 Main Report 100%

Chicago Police Department
Personnel Division
**Only for active personnel*

Report Date: 30 Nov 2011
 Report Time: 1738 Hrs

Information Services Division
 Data Warehouse
 Produced by: ILO1656AEC

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Complimentary History

Name	Title	Star	Unit	Detail Unit	Emp Number
CHISEM, JAMIE C	9161	3202	002		



Achievements

2004 CRIME REDUCTION RIBBON
PRESIDENTIAL ELECTION DEPLOYMENT AWARD 2008
HONORABLE MENTION
2009 CRIME REDUCTION AWARD
TOTAL AWARDS

Total No.

1
 1
 16
 1
 19

INTERNAL AFFAIRS DIVISION
RECORDS SECTION

21 NOVEMBER 2011

TO: COMMANDING OFFICER UNIT 113

FROM: RECORDS SECTION
INTERNAL AFFAIRS DIVISION

SUBJECT: PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF:

CHISEM JAMIE	3202	002
NAME	(LAST, FIRST)	STAR UNIT
MALE	BLACK	
SEX	RACE	EMPLOYEE#

REFERENCE: COMPLAINT REGISTER/ LOG NUMBER 1024212

THE PREVIOUS SUSTAINED DISCIPLINARY HISTORY OF THE SUBJECT
ACCUSED HAS BEEN REQUESTED IN YOUR NAME BY:

SUPV.	KLAVA	113
RANK	NAME	STAR EMPLOYEE# UNIT

RELATIVE TO A SUSTAINED FINDING IN THE INVESTIGATION OF THE
ABOVE REFERENCE COMPLAINT LOG NUMBER.

THE RECORDS SECTION, INTERNAL AFFAIRS DIVISION, DISCLOSED THE
FOLLOWING DISCIPLINARY ACTION ADMINISTERED TO THE SUBJECT
ACCUSED FOR THE PAST FIVE(5) YEARS.

VERIFIED/PREPARED BY:

NIYA SCOTT

NONE 
SEE ATTACHED ☐

FOR: COMMANDING OFFICER
RECORDS SECTION
INTERNAL AFFAIRS DIVISION